

## REMARKS

Claims 17-24 are pending in the application. Claims 1-16 are canceled and new claims 17-24 are added. No new matter is added to new claims 17-24. Claim 17 is independent.

Notwithstanding any claim amendments of the present Amendment or those Amendments that may be made later during prosecution, Applicant's intent is to encompass equivalents of all claim elements. Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1, 3, and 5-10 are rejected under 35 U.S.C. §102(b) as anticipated by Benyassine et al. (IEEE Communications Magazine 0163-6804/97) (hereinafter, Benyassine). Claims 2, 4, and 11-16 are rejected under 35 U.S.C. §103(a) as unpatentable over Benyassine in view of U.S. Patent No. 6,381,570 to Li et al.

Applicants respectfully submit that as claims 1-16 are canceled in the present Amendment, the rejection of claims 1-16 over the prior art is moot.

As a convenience to the Examiner, however, Applicants would like to point out that nowhere does Benyassine or the combination of Benyassine and Li disclose, teach or suggest at least the features of "A method for improving estimates of average background noise energy in a G.729 Annex B compliant voice activity detection (VAD) device by substituting supplemental average background noise parameters derived according to a supplemental algorithm for a running average of background noise parameters derived according to G.729 Annex B, comprising: ... generating a noise threshold,  $T_{\text{noise}, i+1}$ , for the next period, such that  $T_{\text{noise}, i+1} = \min(2 * \min(T_1, T_2), -21 \text{ dBm})$ , where  $T_1 = E_{\text{min}} + (E_{\text{max}} - E_{\text{min}})/32$ ,  $T_2 = 4 * E_{\text{min}}$ ,  $E_{\text{max}}$  = the maximum block energy measured during the current updating period, and  $E_{\text{min}}$  = the minimum block energy measured during the current updating period; ... updating supplemental average background noise parameters to the current period; comparing the supplemental average background noise parameters of the current period to the running average of background noise parameters derived according to G.729 Annex B; and if the supplemental average background

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### **AMENDMENTS TO THE DRAWINGS**

Attached to this Amendment is a Replacement Sheet for Fig. 1, which designates Fig. 1 as "PRIOR ART."

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noise parameters of the current period diverge from the running average of the background noise parameters derived according to G.729 Annex B, then substituting the supplemental average background noise parameters of the current period for the running average of the background noise parameters derived according to G.729 Annex B," as recited in independent claim 17.

## **CONCLUSION**

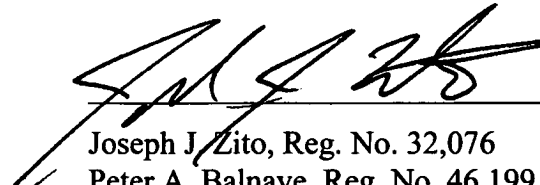
In view of the foregoing, Applicant respectfully submits that claims 17-24, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above-identified Application to issue at the earliest possible time.

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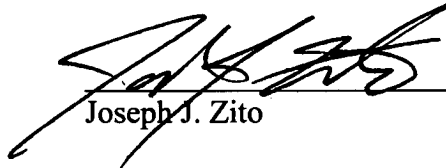
Should the Examiner find the above-identified Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes that may be deemed advisable in a telephonic or personal interview. The Commissioner is hereby authorized to charge any fees associated with this communication to Client's Deposit Account No. 20-0668.

Respectfully submitted,

Date: 1-19-05

  
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Joseph J. Zito, Reg. No. 32,076  
Peter A. Balnave, Reg. No. 46,199  
Customer No. 23494  
Local Telephone: (301) 601-5010

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: the Commissioner for Patents, United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313-1450 on January 19, 2005.

  
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Joseph J. Zito